

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**CHAMBERS OF
CATHY L. WALDOR
UNITED STATES MAGISTRATE JUDGE**

**MARTIN LUTHER KING COURTHOUSE
50 WALNUT ST.
ROOM 4040
NEWARK, NJ 07101
973-776-7862**

August 31, 2011

LETTER ORDER

**Re: BanxCorp v. Bankrate, Inc.,
Civil Action No. 07-3398 (ES)(CLW)**

**BanxCorp v. LendingTree, LLC,
Civil Action No. 10-2467 (ES)(CLW)**

Dear Counsel:

On August 10, 2011, the Court conducted an in-person status conference in the above referenced actions (the "Conference"). At the Conference the Hon. Esther Salas, U.S.D.J., ordered counsel for Defendant Bankrate, Inc. ("Bankrate"), R. Scott Thompson, Esq., to submit to the Court a proposed order memorializing various rulings her Honor made during the Conference. As such, the Court is in receipt of Bankrate's purposed order (Docket Entry No. 273, the "Proposed Order"), Plaintiff BanxCorp's letter dated August 12, 2011 objecting to the Proposed Order (Docket Entry No. 276, "BanxCorp's Objection"), Bankrate's letter dated August 12, 2011 in reply to BanxCorp's Objection (Docket Entry No. 276, "Bankrate's Reply Letter") and BanxCorp's letter dated August 14, 2011 in response to Bankrate's Reply Letter. The Undersigned has considered these submissions, conferred with the Hon. Esther Salas, U.S.D.J., and hereby rules as follows:

DISCOVERY DISPUTE SCHEDULING ORDER

For the reasons given on the record.

IT IS on this 31st day of August, 2011,

ORDERED that the Pretrial Scheduling Order entered in Civil Action No. 10-2467 on April 4, 2011, as amended by order dated June 29, 2011, shall govern proceedings in these consolidated actions; and it is further

ORDERED discovery will proceed as if both the rule of reason and per-se legal theories control; and it is further

ORDERED that the Defendant Bankrate shall serve upon the Plaintiff BanxCorp supplemental interrogatories and document requests. The Hon. Esther Salas, U.S.D.J. reserved ruling on the request for a five day deposition of Mr. Mehl until responses to said interrogatories and document requests are satisfied. Further, her Honor referred said ruling to the Hon. Cathy L. Waldor, U.S.M.J.; and it is further

ORDERED Plaintiff BanxCorp must respond to Defendant Bankrate's supplemental interrogatories and document requests with specific reference to bates stamped ranges to the extent possible; and it is further

ORDERED Plaintiff BanxCorp and Defendant Bankrate shall serve upon each other a letter setting forth any alleged deficiencies in responses to discovery requests no later than August 31, 2011; and it is further

ORDERED Plaintiff BanxCorp and Defendant Bankrate shall respond to the above ordered discovery requests and deficiencies no later than September 16, 2011; and it is further

ORDERED that Plaintiff BanxCorp and Defendant Bankrate shall present any unresolved discovery disputes by joint letter to the Hon. Cathy L. Waldor, U.S.M.J. by October 7, 2011, in accordance with the protocol described on the record on August 10, 2011; and it is further

ORDERED all future discovery disputes must be submitted to the Court as a joint letter. The parties are to be mindful of their obligation to make a good faith effort to meet and confer regarding all disputes before presenting the matter to the Court. Any independent submissions regarding a discovery dispute will be considered a violation this Court Order.

SO ORDERED.

s/Cathy L. Waldor
Cathy L. Waldor, U.S.M.J.